

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092347

02/22/2011

HONORABLE JAMES P. BEENE

CLERK OF THE COURT

K. Alger

Deputy

IN RE THE MARRIAGE OF
SHARON MELISSA MCGEE

SHARON MELISSA MCGEE
150 S ROOSEVELT RD # 1011
MESA AZ 85202

AND

TYRONE A MCGEE

TYRONE A MCGEE
20312 AMANTHA AVE
CARSON CA 90746

FAMILY COURT SERVICES-CCC

ORDER

On August 24, 2010, Petitioner/Mother filed a petition to modify child custody, parenting time and child support. Respondent/Father did not file a response. On February 10, 2011, the Court held an evidentiary hearing on Mother's petition. Mother, Father, Rosa Cruz and Edna McGee testified at the hearing. Based upon the testimony presented at the hearing, the Court enters the following order.

LEGAL CUSTODY

This Court has jurisdiction as Arizona is the "home state" of the minor child. In accordance with A.R.S. § 25-403, the Court finds that it is in the best interest of the minor child for the parties to be awarded joint legal custody of the minor child. In making this finding, the Court considered the factors set forth in A.R.S. §§ 25-403(A) and 403.01(B) and finds as to those factors:

1. ***The wishes of the child's parents or parents as to custody.*** At trial, Mother requested that the Court award her sole legal custody of the minor child.

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Father requested that the Court continue the joint legal custody award that was previously ordered by the Court.

2. ***The wishes of the child as to the custodian.*** No evidence was presented regarding this factor.
3. ***The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.*** Based on the testimony and evidence presented at trial, the Court finds that the minor child has a strong and healthy relationship with Mother. Although Father resides in California, the Court finds that Father also has a good relationship with the minor child. Father presented testimony that the minor child has a good relationship with paternal grandparents.
4. ***The child's adjustment to home, school and community.*** At trial, Mother established that the minor child is well-adjusted to her school, home and community. Father also testified that the minor child is well-adjusted to his residence in California when she is there for his parenting time.
5. ***The mental and physical health of all individuals involved.*** No evidence of adverse mental and physical health was presented in regards to Mother, Father or the minor child.
6. ***Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent.*** Based on the testimony and evidence presented at trial, the Court finds that both parents will allow the minor child to have frequent and meaningful contact with the other parent.
7. ***Whether one parent, both parents, or neither parent has provided primary care of the child.*** At trial, it was established that Mother has provided the primary care for the minor child. Father does assist with the care of the minor child when she is in his care.
8. ***The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.*** No evidence was presented at the hearing regarding this factor.
9. ***Whether a parent has complied with chapter 3, article 5 of this title.*** This factor is not applicable in this case.

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10. ***Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.*** No evidence was presented at the hearing regarding this factor.
11. ***The agreement or lack of an agreement by the parents regarding joint custody.*** The parties do not agree regarding the issue of legal custody. As previously stated, Mother requested at trial that the Court award her sole legal custody of the minor child and Father requested that the Court award the parties joint legal custody of the minor child.
12. ***Whether a parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the child.*** The Court finds that based on the totality of the circumstances presented at trial, Mother's request for sole legal custody is unreasonable and not warranted in this case. Although the parties have had some difficulties in co-parenting the minor children, the Court finds that a defined and stable parenting time schedule as outlined below will assist the parties in effectively co-parenting the minor children. The Court finds that it is in the best interest of the minor child that it affirm its previous award to the parents of joint legal custody of the minor child.
13. ***The past, present and future abilities of the parents to cooperate in decision-making about the child to the extent required by the order of joint custody.*** Mother testified that she has difficulties in co-parenting with Father. Father testified that although he may not always agree with Mother's decisions regarding the minor child, he can still cooperate with Mother regarding joint decision making about the minor child. Based upon the testimony presented at the hearing, the Court finds that it would not be in best interest of the minor child to award Mother sole legal custody of the minor child.
14. ***Whether the joint custody arrangement is logistically possible.*** Based on the testimony presented at trial, joint custody is logistically possible between Mother and Father.

IT IS THEREFORE ORDERED as follows:

- A. The parties are awarded joint legal custody of the minor child.
- B. Each parent is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals involved with the minor child.

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Each party shall keep the other parent informed of the names, addresses and telephone numbers of all health care providers of the child.

- C. Each parent is entitled to full and unrestricted access to all school records, teachers and school officials involved in the child's schooling.
- D. Both parents shall be listed and identified as contact persons on all records.
- E. In the event of any emergency or urgent circumstance involving the child, the other parent shall be notified as soon as is reasonably possible.
- F. Each parent shall have the right to attend and participate in school, extra-curricular, conference, organized activity or other similar event in which parents are routinely invited or permitted to attend.
- G. Each parent shall keep the other apprised of his/her home address, home telephone number, employer and address, work telephone number and, if applicable, cellular telephone number and e-mail address.
- H. It is in the furtherance of the child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. They shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.
- I. It is anticipated that parental decisions shall be required for major issues in raising the child and in meeting her on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input. If the parents cannot agree after making a good faith effort to come to an agreed upon decision, the issue shall be presented to the Court through either party filing the required pleadings.

PHYSICAL CUSTODY

As part of the joint legal custody award, Mother shall be designated as the primary residential parent. Father's parenting time with the minor child shall be as follows:

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Father's parenting time with the minor child shall remain as ordered in the parties' November 16, 2009 parenting plan for joint custody with joint custody agreement. The only modification to the November 16, 2009 parenting time order pertains to the parties' care of the minor child during her Winter Break. Beginning in 2011, the parties shall utilize the following parenting time schedule for Winter Break.

Winter Break. The parties shall split Winter Break equally by the number of overnights and on the day of transition, the parties shall exchange the minor child at 12:00 p.m. Mother shall have the first-half of Winter Break in odd-numbered years and Father shall have the second-half of Winter Break in odd-numbered years. Father shall have the first-half of Winter Break in even-numbered years and Mother shall have the second-half of Winter Break in even-numbered years.

Each parent may have reasonable telephone contact with the minor child during the child's normal waking hours.

Neither parent shall relocate the residence of the child outside of Arizona without prior written consent of the other parent or court order.

IT IS ORDERED that in the event the parties are unable to agree in the future regarding fundamental decisions or parenting time for the minor child, they shall participate in mediation through Conciliation Services or in private or community-based mediation or counseling prior to seeking further Court intervention.

CHILD SUPPORT

For child support purposes, the Court makes the following findings:

| | |
|-------------------------------------|--------------|
| Mother's Income | \$3,677.00 |
| Father's Income | \$3,368.00 |
| Adjustments to Father's Income | \$0.00 |
| Adjustments to Mother's Income | \$0.00 |
| Basic Support Obligation | \$919.00 |
| Over 12 Adjustment | \$0.00 |
| Child Care Paid by Mother | \$400.00 |
| Health Insurance Paid by Father | \$100.00 |
| Parenting Time Adjustment (75 days) | 10.5 percent |

In applying these findings under the Arizona Child Support Guidelines,

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IT IS ORDERED that Father shall pay child support to Mother in the total amount of \$450.00 per month, commencing February 1, 2011. All payments shall be made through the Support Clearinghouse via an automatic Order of Assignment issued this date. Father is advised that until such time as the Order of Assignment becomes effective, Father has an affirmative obligation to pay the child support directly to the Support Clearinghouse.

All obligations for child support shall terminate when the child attains the age of 18 years or is otherwise emancipated, but in the event any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which said child is actually attending high school but only until the child reaches 19 years of age. Provisions for health insurance and non-insured health expenses for the child, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

Pursuant to A.R.S. § 25-503(I), the right of a parent, guardian or custodian to receive child support payments as provided herein vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

DATED the 22nd day of February, 2011

/S/ HONORABLE JAMES P. BEENE

JAMES P. BEENE
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

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